

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

IN RE: JUUL LABS, INC., MARKETING SALES
PRACTICE AND PRODUCTS LIABILITY
LITIGATION

3:19-md-02913 (WHO)

Hon. William H. Orrick

*This Document Relates to All Plaintiffs Identified in
Exhibit A*

**JLI'S NOTICE OF MOTION TO DISMISS WITHOUT PREJUDICE FOR FAILURE TO
SUBMIT DISCOVERY REQUIRED BY CASE MANAGEMENT ORDER NO. 8**

PLEASE TAKE NOTICE that on November 20, 2020, or as soon thereafter as this matter may be heard, in Courtroom 2 of this Court, located at 450 Golden Gate Avenue, 17th Floor, San Francisco, California, Defendant Juul Labs, Inc. ("JLI") will and hereby does move for the Court to dismiss without prejudice plaintiffs identified in Exhibit A to JLI's Motion for failure to submit discovery required by Case Management Order No. 8. The Motion is based on this Notice of Motion and the following Motion to Dismiss.

1 Dated: October 15, 2020

/s/ Renee D. Smith/

2 Renee D. Smith
3 KIRKLAND & ELLIS LLP
4 300 North LaSalle
5 Chicago, IL 60654-3406
6 Telephone: (312) 862-2000
7 Facsimile: (312) 862-2200
8 Renee.Smith@kirkland.com

9 Peter A. Farrell, P.C.
10 KIRKLAND & ELLIS LLP
11 1301 Pennsylvania Ave., N.W.
12 Washington, DC 20004
13 Telephone: (202) 389-5000
14 Facsimile: (202) 389-5200
15 Peter.farrell@kirkland.com

16 Gregory P. Stone (SBN 78329)
17 gregory.stone@mto.com
18 Bethany W. Kristovich (SBN 241891)
19 bethany.kristovich@mto.com
20 John M. Gildersleeve (SBN 284618)
21 john.gildersleeve@mto.com
22 MUNGER, TOLLES & OLSON LLP
23 350 South Grand Avenue, 50th Floor
24 Los Angeles, CA 90071-3426
25 Telephone: (213) 683-9100
26 Facsimile: (213) 687-3702

27 *Attorneys for Defendant Juul Labs, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2020, I electronically served the foregoing Motion on all counsel of record in this action using the CM/ECF system.

/s/ Renee D. Smith
Renee D. Smith

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

IN RE: JUUL LABS, INC., MARKETING SALES
PRACTICE AND PRODUCTS LIABILITY
LITIGATION

3:19-md-02913 (WHO)

Hon. William H. Orrick

*This Document Relates to All Plaintiffs Identified in
Exhibit A*

**JLI'S MOTION TO DISMISS WITHOUT PREJUDICE FOR FAILURE TO SUBMIT
DISCOVERY REQUIRED BY CASE MANAGEMENT ORDER NO. 8**

Case Management Order ("CMO") No. 8 requires that every plaintiff asserting a personal injury or wrongful death claim in a case entered on the MDL 2913 docket submit a substantially complete Plaintiff Fact Sheet ("PFS") within 60 days after the complaint has been entered. (CMO No. 8 § 5 (Docket No. 406).) Numerous plaintiffs did not comply.

Pursuant to Sections 5 and 12 of CMO No. 8, on September 14, 2020, JLI served counsel of record for plaintiffs identified in Exhibit A with a Notice of Overdue Discovery (the "Notice"), identifying their overdue discovery, and notifying them that their cases may be subject to dismissal for failure to comply with the Court's discovery orders. (*Id.* ¶ 12; Affidavit of Christina Sharkey ("Aff.") ¶¶ 4-5.)

Plaintiffs identified in the Notice were required to submit a completed PFS on or before October 14, 2020, or risk having their claims dismissed. (CMO No. 8 ¶ 12.) None of the plaintiffs identified in Exhibit A responded to the Notice, and none of the plaintiffs identified in Exhibit A have subsequently produced a Plaintiff Fact Sheet. (Aff. ¶¶ 6-7.)

Pursuant to CMO No. 8, JLI hereby moves to dismiss, without prejudice, the claims of the plaintiffs identified in Exhibit A who have not submitted a completed PFS. Pursuant to CMO No. 8, Plaintiffs subject to the foregoing Motion must file a response no later than **October 29, 2020**, either (a) certifying that the plaintiff has submitted a completed PFS or (b) opposing the Motion for other reasons.

1 Dated: October 15, 2020

/s/ Renee D. Smith

2 Renee D. Smith
3 KIRKLAND & ELLIS LLP
4 300 North LaSalle
5 Chicago, IL 60654-3406
6 Telephone: (312) 862-2000
7 Facsimile: (312) 862-2200
8 Renee.Smith@kirkland.com

9 Peter A. Farrell, P.C.
10 KIRKLAND & ELLI LLP
11 1301 Pennsylvania Ave., N.W.
12 Washington, DC 20004
13 Telephone: (202) 389-5000
14 Facsimile: (202) 389-5200
15 Peter.farrell@kirkland.com

16 Gregory P. Stone (SBN 78329)
17 gregory.stone@mto.com
18 Bethany W. Kristovich (SBN 241891)
19 bethany.kristovich@mto.com
20 John M. Gildersleeve (SBN 284618)
21 john.gildersleeve@mto.com
22 MUNGER, TOLLES & OLSON LLP
23 350 South Grand Avenue, 50th Floor
24 Los Angeles, CA 90071-3426
25 Telephone: (213) 683-9100
26 Facsimile: (213) 687-3702

27 *Attorneys for Defendant Juul Labs, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2020, I electronically served the foregoing Motion on all counsel of record in this action using the CM/ECF system.

/s/ Renee D. Smith
Renee D. Smith